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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

DANIEL WORSHIP,

Plaintiff,

-against-

SUFFOLK COUNTY POLICE DEPARTMENT; THOMAS J. SPOTA; SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE; ASSISTANT DISTRICT ATTORNEYS JANE AND JOHN DOES "1"- "5," KEVIN WARD, JOHN SCOTT PRUDENTI and CHRISTOPHER NICOLINO; DETECTIVES/POLICE OFFICERS TOM ICAPELLI, ROBERT AMATO, RAYMOND FELICE and JOHN AND JANE DOES "1"- "5," and THE COUNTY OF SUFFOLK,

Defendants.

RECEIVED
JUN 22 2007
BRUCE A. BARKET

100 Veterans
Memorial Highway
Hauppauge, New York

June 5, 2007
10:45 a.m.

EXAMINATION BEFORE TRIAL of JOHN SCOTT PRUDENTI, one of the Defendants in the above-entitled action, held at the above time and place, pursuant to Notice, taken before Eileen Savino, a shorthand reporter and Notary Public of the State of New York.

A P P E A R A N C E S:

BRUCE A. BARKET, P.C.
Attorneys for Plaintiff
666 Old Country Road
Garden City, New York 11530
BY: BRUCE A. BARKET, ESQ.

SUFFOLK COUNTY DEPARTMENT OF LAW
Attorneys for Defendants
H. Lee Dennison Building
6th floor
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, New York 11788
BY: RICHARD T. DUNNE, ESQ.
Assistant County Attorney

ALSO PRESENT:

Christopher A. Nicolino

Daniel Worship

IT IS HEREBY STIPULATED AND AGREED by
and between the attorneys for the respective
parties:

That all rights provided by the CPLR,
including the right to object to all questions
except as to form, or to move to strike any
testimony at this deposition, are reserved
for trial; and that failure to object to any
question, or to move to strike any testimony
at this deposition shall not be a bar or
waiver of the right to make such objection or
motion at the trial of this action.

That this deposition may be sworn to
by the witness before any notary public; and
the failure to do so, or to return the
original transcript to counsel for the party
on whose behalf it was taken, shall not be
deemed a waiver of the rights provided by
CPLR Rule 3116, and shall be so controlled.

That the filing and certification of
this examination are waived.

That a copy of this examination shall
be furnished without charge to the attorney
representing the witness testifying herein.

J O H N S C O T T P R U D E N T I ,
the witness herein, having first
been duly sworn by a Notary Public
of the State of New York, was
examined and testified as follows:

EXAMINATION BY

MR. BARKET:

Q. Please state your name for the
record.

A. John Scott Prudenti.

Q. Please state your address for the
record.

A. 33 Evergreen Avenue, East Moriches,
New York 11940.

Q. Good morning.

A. Good morning.

Q. Have you ever been deposed before?

A. Once, I believe.

Q. What was the context?

A. It was a matter involving an
inquiry into a food sickness.

Q. Were you the plaintiff?

A. Defendant.

Q. Let me skip over that for the time

being.

I'm going to be asking a series of questions. You know that. If I'm not clear, just say that, and I'll try to rephrase.

A. Certainly.

Q. If you answer the question, we will all assume that you understood the question.

A. Very well.

Q. You're an attorney?

A. Yes.

Q. How long have you been practicing?

A. Since 1986.

Q. Where did you graduate from law school?

A. Touro.

Q. What year?

A. 1985.

Q. Did you work between 1985 and 1986?

A. At a restaurant.

Q. Where did you go to college?

A. Oneonta.

Q. What did you get your degree in?

A. Bachelor of Arts.

Q. In what subject?

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2 A. History and a political science
3 minor.

4 Q. Other than working for the Suffolk
5 County District Attorney's Office, have you
6 had any other legal employment?

7 A. Off and on doing work for my
8 father's firm, basically awaiting admission
9 to the Bar during the Summer of -- during the
10 period of 1985 to 1986.

11 Q. You were a defendant in a civil
12 lawsuit?

13 A. I don't know if it got that far.
14 There was inquiry made with respect to a
15 person claiming that they had a food-bourne
16 illness from a number of restaurants, one of
17 which was owned by my family.

18 Q. When was that? Do you recall?

19 A. I don't recall.

20 Q. Other than that, have you ever been
21 a plaintiff or a defendant in a civil
22 lawsuit?

23 A. Not that I'm aware of.

24 Q. I take it you have never been
25 charged with any type of crime?

A. In 1980, I was arrested for driving while intoxicated, subsequently pled to impaired.

MR. DUNNE: Note my objection to the question, but under the federal rules, he is permitted to answer that, and the answer is there.

MR. BARKETT: Why would you object then? It's already on the record as asked.

MR. DUNNE: Well, you are permitted, but that doesn't mean that several years down the road -- I mean, that's what the federal stipulations mean.

Q. Other than that, no other criminal charges?

A. No.

Q. The context of your employment as an assistant district attorney, have there ever been allegations of profitorious misconduct directed at you?

A. I'm not aware of any.

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2 Q. Have you ever been the subject of a
3 complaint to the grievance committee?

4 A. None that I'm aware of.

5 Q. Just to follow up on the
6 misconduct --

7 MR. DUNNE: Misconduct
8 question?

9 MR. BARKET: Right, the
10 misconduct question.

11 Q. Obviously, you've obtained a number
12 of convictions over the years; is that right?

13 A. I would think so.

14 Q. Well, you don't have to think so.
15 We know that to be true. Yes?

16 A. Yes.

17 Q. Sometimes individuals file what we
18 refer to as post-judgment motions.

19 Do you know what those are, in
20 general?

21 A. Yes.

22 Q. 440s?

23 A. 440 motions.

24 Q. Some of the 440s may or may not
25 include allegations that the trial prosecutor

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engaged in misconduct.

Are you familiar with that as a concept or an argument?

A. I've heard that used as an argument.

Q. Has anyone ever filed a 440 or post-judgment motions alleging that you engaged in some misconduct during the trial?

MR. DUNNE: Again, I note my objection, but go ahead, John, and answer that as best you can.

A. All of our 440 motions are answered by our appeals. I don't have the occasion to do the appeals. Whatever extent that our input is necessary to help them, we provide that. There may or may not be, but none that I'm aware of.

Q. There was no instance where you were aware of an individual complaining that you failed to disclose exculpatory material or other discoverable material?

A. Again, none that I'm aware of.

Q. Starting with your current position, I want to work backwards to where

Q. The dates for that?

A. Probably for about a year and a half, two years. So if we're working backwards, then --

Q. June '02?

A. Yeah, probably August, maybe August '02 to June '04, sounds about right.

Q. Prior to working at Economic Crimes Bureau?

A. Rackets, what was then called the Rackets Bureau, which is now Rackets Investigations.

Q. The Rackets Bureau, is that aimed at organized crime?

A. Yeah. I guess one of the areas would be organized crime.

Q. Have you ever been cross-designated to work with a federal law enforcement agency?

A. No.

Q. Have you ever worked with federal law enforcement officers in connection with responsibilities as an assistant district attorney?

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2 A. I'm sure during the course of my
3 tenure involving different investigations, I
4 have had occasions to work with them, but I'm
5 not recalling any specific joint
6 investigations where both of us were working
7 on the same thing. We probably assisted each
8 other.

9 Q. How long did you work in the
10 Rackets Bureau?

11 A. Probably, I would say -- where are
12 we at there, '02?

13 Q. Yes.

14 A. Either '89 or '90, to '02.

15 MR. DUNNE: 1990.

16 Q. Prior to that?

17 A. That would be the Major Crimes
18 Bureau.

19 Q. How long were you in that bureau?

20 A. Approximately seven or eight years.

21 Q. That brings us back to 1992.

22 A. That would have been the Family
23 Crimes Bureau.

24 Q. How long were you there?

25 A. Approximately two years.

Q. Where did you start in the office,
in the District Court?

A. I started in the District Court in
1986.

Q. How long were you in the District
Court Bureau?

A. Approximately a year.

Q. Where did you go from District
Court?

A. East end, which was either an
extension or subdivision of the District
Court Bureau, but it was -- I don't remember.

Q. How long were you at the east end?

A. Approximately a year.

Q. Where did you go after that?

A. Felony screening, Grand Jury -- I
believe it was combined.

MR. DUNNE: It was combined.

Q. Richard Dunne is your lawyer in
this particular case, right? He is
representing you as part of the Suffolk
County Attorney's Office?

A. Yes.

Q. Did you two know each other when

1
2 you were in the District Attorney's Office?

3 A. Yes. I believe we started at or
4 about the same time.

5 MR. DUNNE: No, the same day

6 or --

7 MR. BARKET: Well, his
8 recollection controls.

9 Q. Let me direct your attention, if I
10 can, to the investigation concerning Daniel
11 Worship. Do you recall that?

12 A. Yes.

13 Q. What was your role in that
14 investigation?

15 A. To the best of my recollection, my
16 role was I was brought in at some point after
17 the initial arrest and initial indictment of
18 Stephen Milvid who was a contractor doing
19 business with the Town of Brookhaven. After
20 that initial investigation, we were looking
21 in other areas where Milvid had, in fact,
22 done work. One of those areas was the
23 Municipal Village of Patchogue.

24 Q. You were assigned to work on the
25 investigation and look at other areas where

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Mr. Milvid had poured concrete or done construction work?

A. Correct.

Q. What were your assigned duties? What were you supposed to be doing?

A. We were looking at other areas where his construction projects were, in fact, taking place to see if there was any commonality as to the way that he was, in fact, doing his business or performing his work.

Q. Who was your supervisor?

A. Ed Heilig.

Q. Mr. Nicolino who is here today, was he working on that case as well?

A. He was working, but in a different capacity. We had kind of split this up. I kind of came in after the Brookhaven thing had started, and we were looking at different targets in the Town of Brookhaven.

Q. Did there come a point in time where you met with or came across the name Daniel Worship?

A. Yes.

1
2 Q. When was that?

3 A. The first time that I came across
4 the name of Daniel Worship, I was informed by
5 Mr. Nicolino that after a search warrant or
6 something to do with a warrant with respect
7 to Mr. Milvid's office was analyzed, and his
8 name came up either on a rolodex or there was
9 some other way that there was contact there,
10 and then I later learned that he did, in
11 fact, have a position with the Village of
12 Patchogue related to Mr. Milvad's working in
13 Patchogue.

14 Q. By the way, did you ever receive a
15 Notice of Deposition to come to the
16 deposition today?

17 A. I don't believe I did.

18 MR. DUNNE: I got it.

19 Q. Did you bring any documents with
20 you today?

21 A. Actually, I brought the -- it ended
22 up being four copies, the verdict sheet that
23 was done by Judge Weber with the results of
24 the criminal case.

25 Q. You mean his written decision

issuing a verdict?

A. Yes.

Q. Any notes or reports or any other documents?

A. No.

Q. Were you asked to bring any?

A. No.

Q. After coming across Mr. Worship's name, did you make a decision as to whether or not you wanted to speak to him or believed he was either a witness or a target of the investigation?

A. Based upon what we knew at the time through the Strebel Milvid connection, we believed that there could be areas where there could be some commonality with Mr. Worship and Mr. Worship's involvement with Milvid and others that Milvid was, in fact, involved with, involving both Patchogue and the Town of Brookhaven.

Q. So you thought that Mr. Worship was potentially a witness or potentially a target?

A. A target with respect to

1
2 substandard work being done, if he would have
3 had knowledge of that, and I believe through
4 his position that he would have been the
5 person charged with that task and, again, it
6 seems to have been some patterns repeating
7 themselves through very similar patterns that
8 were, in fact, done in Brookhaven, including
9 but not limited to what they call monolithic
10 pour, substandard curb work, work that was
11 being measured incorrectly, and I think in
12 both instances, we learned that the necessary
13 records were not being kept and maintained
14 with respect to Mr. Milvid's failure to pay
15 minimum wage to his employees.

16 Q. Did you make a decision that you
17 wanted to speak with Mr. Worship?

18 A. A decision was made that
19 Mr. Worship would be the person to speak to.

20 Q. Who made that decision?

21 A. I believe I spoke to Mr. Nicolino,
22 myself, and I would have talked to Ed Heilig,
23 and I think a decision was made at some
24 point; something to the effect of let's see
25 if he wants to come in and talk to us.

Q. Did you discuss how you arrange to speak with Mr. Worship?

A. I believe Mr. Nicolino had called Mr. O'Connell on some occasions and not getting a call back. I then called Pat O'Connell. He called me back, and a meeting was subsequently set up.

Q. How did you know to contact Mr. O'Connell?

A. I believe that I had that information from someone. I don't know if I got it from either Mr. Nicolino, but I do know that a couple of calls were made to Pat that were unreturned, and then I know that I had called.

Q. Let me back up a bit.

I guess at some point in time, your office learned that Mr. Worship had retained an attorney for this matter?

A. I guess I'm making the assumption because I'm calling him, but yeah, we would have had to have learned that.

Q. Do you know who first contacted Mr. Worship and learned that he was

1
2 represented by counsel?

3 A. That I don't know. I just -- my
4 recollection is that there were several phone
5 calls that were left unreturned and that I,
6 in fact, called back and said, "Hey, does
7 your guy want to come in or not?"

8 Q. What did you say to him?

9 A. I said, "Does your guy want to come
10 in or not?"

11 Q. Why didn't you call Mr. Worship
12 directly when Mr. O'Connell didn't return the
13 calls?

14 A. Because we called, you know, and
15 for whatever reason, we were either led to
16 believe, or I was told that O'Connell was his
17 attorney.

18 Q. The fact that Mr. Worship had
19 retained an attorney for the matter, did that
20 have any impact or effect on your decision to
21 contact him directly?

22 A. I'm not following you.

23 Q. Well, if Mr. Worship was not
24 represented by counsel, I take it that you
25 would've contacted Mr. Worship directly; is

that right?

A. That's correct.

Q. Did you think that it was a choice as to whether or not you could call Mr. Worship directly when he was represented by counsel?

A. No. I guess we received or -- I'm not guessing. We would have been aware at that point because we were, in fact, calling O'Connell.

Q. How many meetings did Mr. Worship and Mr. O'Connell attend at your office?

A. I'm only aware of one, in which I was present.

Q. Who else was present for that meeting?

A. I believe that meeting took place in a downstairs conference room. It was myself, Mr. O'Connell, Mr. Worship, and I think Mr. Nicolino, and perhaps one or two of our investigators. I'm sure that there would have been an investigator present.

My recollection of that day is that we spent more time out on the front porch

1 smoking a cigarette than the meeting lasted
2 because the meeting lasted five minutes, if
3 that.
4

5 Q. Do you have any record of the
6 meeting?

7 A. No.

8 Q. Did you make any notes?

9 A. No, i did not.

10 Q. Did you record that the meeting
11 took place anywhere?

12 A. I just have a recollection that the
13 meeting took place in the first floor
14 conference room of our office in Hauppauge.

15 Q. In lengthy investigations, did you
16 have a method to keep track of the
17 investigation?

18 A. We would have meetings that --

19 Q. I'm sorry. I don't think the
20 question was very clear. Let me come back
21 and walk through a few other things.

22 Typically, in the State District
23 Attorney's Office, you would get cases after
24 the crime has occurred, right?

25 A. That is correct.

Q. However, in some of the specialized bureaus, you actually go out and supervise the investigations and do the investigations, after the crime has occurred, obviously, but before an arrest is made; is that fair?

A. That would be correct.

Q. Some of those investigations in Economic Crimes and Organized Crimes or Rackets can be quite lengthy; is that right?

A. That is correct.

Q. And they can be quite complicated in terms of number of witnesses or legal issues and so forth?

A. That's also correct.

Q. Did you keep a folder or a notebook, or did you have a method to keep track of in written form the stages of the investigations?

A. No, I did not.

Q. Did you have any calendar that you would use?

A. The -- no.

Q. At the meeting with Mr. O'Connell and Mr. Worship, what was discussed?

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2 A. I think, in general terms, whether
3 or not he wanted to cooperate with this
4 investigation, that it was quite possible
5 that he, himself, could have liabilities as a
6 result of the activities which we were
7 learning about. We had already -- I believe
8 up until this point, we had already
9 established Milvid's practices within the
10 Town of Brookhaven, and initial reports were
11 coming back that a lot of the same things
12 were being observed in Patchogue but
13 obviously on a smaller scale but, again, a
14 very similar type of (a) substandard work,
15 (b) not paying for minimum wage, (c)
16 monolithic pours, and also short pouring and
17 systematical billing.

18 Q. All this was discussed at this
19 meeting?

20 A. No, this was --

21 Q. Let me go back then and ask the
22 question again.

23 What was discussed at the meeting?

24 A. Whether or not he wished to avail
25 himself of cooperating with our office, and I

1
2 believe the question came from Mr. O'Connell
3 as to, "Okay. What have you got?" I believe
4 it was myself that responded, "This is not
5 the way it works. You're going to have to
6 talk to your client. You know, what our
7 investigation is. You know where this has
8 been going."

9 I think it was quite public with
10 respect to Milvid. Every fact of his arrest
11 in September was like a shock wave that had
12 gone through the political word, and I
13 believe quite a few people were aware of this
14 particular arrest. I believe his equipment
15 was, in fact, seized and taken into impound
16 which was the subject of a lot of discussion,
17 and he may or may not have been informed
18 that, "Okay, listen. We know that Milvid's
19 working in your town." I think it was more
20 along the lines of, "Do you want -- this is
21 your chance. Do you want to cooperate with
22 us?"

23 And, again, it was basically,
24 "Okay. What do you have on him? Can you
25 tell us? We're not going to play our part

1
2 out for you. You have to decide. Do you
3 want to come forward or not?"

4 I believe that's when Mr. O'Connell
5 said that they weren't interested, and the
6 meeting took place pretty much as long as my
7 explanation of this answer to you.

8 Q. So he said he wasn't interested in
9 cooperating and that was the end of it?

10 A. Pretty much.

11 Q. He said that in front of
12 Mr. Worship?

13 A. Yes.

14 Q. Did Mr. Worship say anything during
15 the meeting?

16 A. I don't recall Mr. Worship saying
17 anything at the meeting.

18 Q. Let me go over this so that a lay
19 person reading this will understand what
20 you're saying, and so that I make sure that
21 my understanding is correct.

22 When you say "cooperate," do you
23 mean in a typical sense of a witness who
24 might be a witness to a crime on the street
25 would come in and testify and cooperate?

A. No.

Q. Or did you mean cooperate in the sense that in exchange for offering testimony, you may be more lenient in any prosecution of Mr. Worship?

A. That is correct.

Q. I take it that you have dealt with individuals who have cooperated in that sense in the past; is that right?

A. That is correct.

Q. Is that a regular part of your responsibilities as a prosecutor?

A. Yes, it is.

Q. To frequently make, for lack of a better phrase, deals with people who have committed crimes to get other people who have committed crimes?

A. That is correct.

Q. Reduce their sentences, reduce the criminal charges that they have to plead guilty to, yes?

A. If the situation warrants it, yes.

Q. In exchange for what you would require would be, in your view, truthful

1
2 testimony against other individuals?

3 A. That is correct.

4 Q. At this point in time, Mr. Worship
5 had not been arrested, had he?

6 A. No, he had not.

7 Q. Had he been indicted?

8 A. No, he had not.

9 Q. The status of the investigation as
10 to Mr. Worship was still in its investigative
11 phase; is that right?

12 A. As it was with everybody with
13 respect to this, with the exception of
14 Mr. Milvid. Mr. Milvid remained the only
15 person that was, with respect to this initial
16 investigation, was the only one that was
17 placed summarily under arrest.

18 Q. Now, in this capacity, working in
19 the investigative phase, is there a hierarchy
20 who has control of the investigation, the
21 prosecutors that work in the District
22 Attorney's Office or the police detectives
23 that work in the District Attorney's Office?

24 A. I'm not following you.

25 Q. Well, you're familiar with

Detective Amato?

A. Yes, I am.

Q. What about Detective Icapelli?

A. Yes, I am.

Q. Detective Felice?

A. Yes.

Q. They were employees of Tom Spota;
is that right?

A. Yes, they were.

Q. As are and as were you at the time?

A. Yes, that's correct.

MR. DUNNE: Off the record.

MR. BARKET: Sure.

(Whereupon, a discussion was
held off the record.)

Q. By the way, when did this meeting
take place? What was the date of meeting?

A. I'm giving you an approximate time
period here, but my recollection would some
time of mid to late October, early November.
I remember Fall.

Q. Fall of what year?

A. I would be fairly comfortable
saying Fall of '02.

1
2 Q. Getting back to my question, if
3 there were disagreements as to what should
4 the next step in the investigation be, who
5 would have the authority to make that
6 decision, the prosecutors or the detectives?

7 A. The detectives would report their
8 findings. Their findings would be discussed
9 by us and depending on what part of the
10 investigation the detectives were involved
11 in, that would result in the information
12 going to whoever would be responsible for
13 that part of the investigation. My part of
14 this investigation at this point in time was
15 the overall Brookhaven investigation with
16 respect to matters of Milvid with other areas
17 that he would have been doing work in.

18 Q. Who was in charge, the prosecutors
19 or the police?

20 A. They would again give us the
21 information, and we would then look to see
22 what we could do with this information, and
23 based on the information provided to us, we
24 would decide to issue other subpoenas, look
25 at other records, and then they would go out,

and if there were other leads, they would go out and chase those leads.

Q. The detectives ultimately have to follow the direction of the prosecutors; is that right?

A. To a certain extent, yeah.

Q. Was there an ongoing grand jury investigation into Mr. Worship's activities at the time of this meeting?

A. At this time, there had been, yes. There had been some grand jury investigation as to -- I think certain matters were subpoenaed, that I became aware of, and some similar, again, construction companies were coming up that we were familiar with, both in Brookhaven and Patchogue.

Q. Ultimately, Mr. Worship was indicted by the grand jury; is that correct?

A. That is correct.

Q. Who presented the case to the grand jury?

A. The case was presented by myself and Mr. Nicolino.

Q. When did that grand jury

1 presentation begin?

2 A. I'm unsure of the exact date. I do
3 know that this was not a regular grand jury.
4 So I do know that this did not take place in
5 a typical term. It was presented to a
6 special grand jury. To the best of my
7 recollection, I would say that the initial
8 part of the grand jury was started in March,
9 possibly April of '03. I'm comfortable with
10 saying the Spring of '03. It would have been
11 the initial part of the investigation, Spring
12 or it could have been early Summer, but it
13 was --
14

15 Q. We won't hold you to a particular
16 month.

17 When did the grand jury hand up
18 this indictment against Mr. Worship?

19 A. I'm not sure of the hand up, but I
20 want to say the latter part of Spring of '03.

21 Q. So a few months after it started?

22 A. Yeah. It was a lengthy grand jury
23 investigation.

24 Q. But it was from the Spring of '03.
25 It wasn't to the Spring of '04, was it?

A. There was a lot of information that was subpoenaed, both with respect to him, more so with Milvid, more so with the Village of Patchogue.

Q. I'm just concerned with the timing at this point. You said it started in the Spring of '03, March or April, and you said it ended with the hand up late Spring or early Summer of '03?

A. Correct.

Q. So it all would have taken place within the confines of three or four months; is that fair?

A. But you're leaving out the subpoena part. There were records that were subpoenaed months in advance.

Q. By the same grand jury?

A. By way of the grand jury subpoenas.

Q. By the same grand jury?

A. I'm not sure if this grand jury -- I'm not sure of the term of this particular grand jury. I know this grand jury was a special, but I don't know --

Q. When it was in term?

1
2 A. What the term was is what I'm
3 trying to tell you.

4 Q. Did there come a point in time
5 where you became concerned with Mr. O'Connell
6 representing Mr. Worship? If you became
7 aware of -- just the timing. Did you become
8 concerned at some point in time?

9 A. There became a concern when it
10 appeared that Pat Strebel, Patricia Strebel,
11 the highway superintendent, was also now
12 implicated through the access of records
13 seized and analyzed and certain other records
14 looked at that it appeared that Patricia
15 Strebel also would be a potential target, and
16 we were notified that Pat O'Connell would be
17 representing her as well.

18 Q. When did that occur?

19 A. That would have occurred some
20 time -- I know that I learned about that at
21 some point in December of '02. I would have
22 had to have learned that.

23 Q. Who was the supervising judge of
24 the grand jury that was issuing the subpoenas
25 at that time?

A. I don't recall.

Q. There was a supervising judge; is that right?

A. There was a supervising judge.

Q. So that if there were legal issues that arose during the course of the investigation, you could go to the judge for rules; is that right?

A. That's true.

Q. Did you ever utilize that?

A. No, I did not.

Q. Once you were aware of Mr. O'Connell's possible representation of Ms. Strebel, what did you do?

A. I believe at some point I had a chance conversation with his partner and indicated to him, "I think this is going to be coming up, and you guys are going to be representing two of these. I think you're going to have a conflict sooner or later down the line." He didn't think so.

Q. Are we aware of a meeting that took place between Mr. Worship, Mr. Icapelli, and Mr. Amato at a 7-Eleven?

1 A. I became aware of it.

2 Q. When did you become aware of it?

3 A. I believe I became aware of that
4 meeting after I had listened or was informed
5 about a tape that was made by Mr. Worship.

6 Q. So that would have been during the
7 trail or well after the indictment?

8 A. I don't know if it was well after
9 the indictment. It actually might have been
10 before the indictment but after the
11 presentation that Mr. Tineri brought some
12 concerns to the District Attorney himself,
13 and we became aware of --

14 Q. Were you aware that Detective Amato
15 and Detective Icapelli were talking to
16 Mr. Worship without consulting Mr. O'Connell?

17 A. No, I was not.

18 Q. Until the tapes were brought to
19 your attention, did you ever become aware of
20 it?

21 A. At some point, I think I became
22 aware of a conversation where it was felt
23 that he might be looking for another lawyer,
24 and he may want to cooperate, but he wanted
25

1 to cooperate with Gianelli, and I think at
2 that point, it was -- I know I became aware
3 of it because Gianelli represents the other
4 co-defendant. So he would not be allowed to
5 cooperate in respect to that as well because
6 we thought that there would be conflicts,
7 some obvious conflicts.
8

9 Q. Who brought the possibility that
10 Mr. Worship would hire Mr. Gianelli to your
11 attention?

12 A. That would have been -- I believe
13 that would have been one of the detectives.
14 I just recall that coming to my attention.

15 Q. When the meeting left, with you and
16 Mr. O'Connell and Mr. Worship, and you said
17 it was extremely brief, was there any
18 ambiguity as to whether or not Mr. Worship
19 was going to cooperate?

20 A. I don't think there was any
21 ambiguity.

22 Q. I mean, you were told, as I gather
23 from what you said, unequivocally that he was
24 not interested in that and that was the end
25 of it; is that right?

1
2 A. That's correct.

3 MR. DUNNE: Are you asking
4 on the day of the meeting?

5 MR. BARKET: Right. On the
6 day of the meeting.

7 Q. You're aware of the rules of
8 professional responsibility and ethics and
9 that you're not permitted to have contact
10 with a person that is represented by counsel;
11 is that right?

12 A. That's correct.

13 Q. It's actually part of a code of
14 professional responsibility.

15 A. That's correct.

16 Q. Once you met with Mr. O'Connell and
17 Mr. Worship, you recognized that you were not
18 free to speak to Mr. Worship about the
19 subject matter that Mr. O'Connell was
20 representing him for without Mr. O'Connell's
21 permission; is that right?

22 A. Yeah, and I had no further
23 conversations with Mr. Worship.

24 Q. You recognize that you were not
25 free to direct others to go and speak to

Mr. Worship without Mr. O'Connell's permission; is that right?

A. And I did not direct others to speak to him.

Q. In other words, if Detective Amato had said to you, "Hey, I want to go speak to Mr. Worship," you would have told him, "No, that's not permitted?"

MR. DUNNE: Objection to the speculative nature of the question, but you can answer that as best you can.

A. I would have told him not to speak to Mr. Worship.

Q. Without Mr. O'Connell's permission?

A. I would told him not to speak to Mr. Worship.

Q. Did Detective Amato or Detective Icapelli ever come to you and indicate that they wanted to speak to Mr. Worship and try talking him into cooperating, despite his initial position?

A. I think at some point in time, it was discussed that maybe this guy wants to

1
2 come in, and I said that, well, you know, he
3 can't come in with the attorneys that are
4 already involved in this. We were aware of
5 other avenues that were continuing in this
6 investigation, and I believe we saw potential
7 conflicts.

8 Q. When you say you were told that he
9 might want to come in, who told you that?

10 A. Possibly one of --

11 Q. Icapelli or Amato?

12 A. It would've been one of those two
13 individuals.

14 Q. You said that he can't come in with
15 the lawyers that had been discussed. Did
16 that include Mr. O'Connell?

17 A. It certainly would have included
18 Mr. O'Connell, and it would have included
19 Mr. Gianelli.

20 Q. So that if Mr. O'Connell had called
21 you up and said, "You know what? My client
22 changed his mind. He wants to cooperate."
23 You would've said to him that he's got to get
24 a new lawyer?

25 A. We would have allowed to him to

1
2 cooperate, but he would have had to switch
3 lawyers, and we would have pointed out to
4 Mr. O'Connell that without disclosing who the
5 particular conflicts are, for obvious
6 reasons, these weren't people that were
7 already arrested and --

8 Q. Did you ever --

9 A. Let me finish my answer.

10 Q. I'm sorry.

11 A. These were not people who were
12 already arrested. We didn't want to be in a
13 situation where it could be that
14 Mr. O'Connell and I were talking about, you
15 know, Mr. Barket, we know that you're
16 friendly with him or that you know him. He's
17 next.

18 Q. Let's not use me in that particular
19 context, but continue.

20 A. We didn't want to have that
21 situation arise.

22 Q. Did you ever move to have
23 Mr. O'Connell disqualified from representing
24 Mr. Worship?

25 A. No.

Q. Are you familiar with the method to do that?

A. Yes, I am.

Q. So if you believed that an attorney in a criminal case had an unwaivable conflict of interest, you know that there is a procedure to have that attorney disqualified?

A. That would have been up to Mr. Worship, in fact, if he wished to avail himself of cooperation, my belief.

Q. Were you aware that between December '02 and February '03 that Mr. Worship had several phone conversations with Detective Amato and/or Detective Icapelli?

A. I wasn't aware of it at the time. I became aware of it.

Q. After you became aware of that, were there any disciplinary proceedings or conversations had with Icapelli and Amato about the propriety of speaking to a represented individual.

MR. DUNNE: I'm going to object to the form of that, but you

can try to answer that as best you can.

A. You're talking about the talk thing?

Q. In other words, stop doing what they had been doing?

MR. DUNNE: No. Objection.

That is a complete mischaracterization of the answer that was just given.

Don't answer that question.

Q. They were told to stop talking to him?

A. Yes. The decision was made to stop talking to them.

Q. Who made that decision?

A. I believe that was discussed between myself and Ed Heilig.

Q. Was Mr. Spota aware of this?

A. I think Mr. Spota became aware of the conversations because Mr. O'Connell's partner had brought tapes of those conversations to Mr. Spota himself, not to myself, not to Mr. Heilig. In fact, that's

1
2 how I learned of those subsequent
3 conversations.

4 Q. When were these tapes brought to
5 Mr. Spota, that you are aware of?

6 A. I'm not sure of the time frame of
7 that, but I do know that they were --

8 Q. Can you give me a year?

9 A. It would have been some time, I
10 guess, probably -- I'm comfortable saying
11 Spring, maybe April '03.

12 Q. Are you aware of any training that
13 the individuals who joined the District
14 Attorney's Office as detectives or
15 investigators are given before they are
16 permitted to work?

17 A. No.

18 Q. Is there a manual for procedures
19 for the detectives or investigators that work
20 for the District Attorney's Office?

21 A. I'm not aware of detective or
22 investigators' procedures.

23 Q. Are you aware of a manual that
24 exists for the District Attorney's Office for
25 those who are working as detectives or

investigators for the office?

A. Again, with respect to detectives and detective investigators, I'm not aware of any manual or standard of operation or operation of code.

MR. BARKET: Subject to the resolution of the paperwork problem that we have, you can go back to your regular duties.

THE WITNESS: Thank you.

-o0o-

(Whereupon, the examination of John Scott Prudenti was concluded at 11:30 a.m.)

JOHN SCOTT PRUDENTI

Subscribed and sworn to
before me this _____ day
of _____, 2007.

NOTARY PUBLIC

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